

M38VRAY1

1           UNITED STATES DISTRICT COURT  
2           SOUTHERN DISTRICT OF NEW YORK  
3           -----x

4           UNITED STATES OF AMERICA,

5           v.

20 Cr. 110 (LJL)

6           LAWRENCE RAY,

7           Defendant.

Trial

8           -----x  
9           New York, N.Y.  
10           March 8, 2022  
11           9:45 a.m.

12           Before:

13           HON. LEWIS J. LIMAN,

District Judge  
and a jury

14           APPEARANCES

15           DAMIAN WILLIAMS,

16           United States Attorney for the  
17           Southern District of New York

18           DANIELLE R. SASSOON

19           MOLLIE BRACEWELL

20           LINDSEY KEENAN

21           Assistant United States Attorneys

22           FEDERAL DEFENDERS OF NEW YORK, INC.

23           Attorneys for Defendant

24           MARNE L. LENOX

25           ALLEGRA GLASHAUSSER

Also Present: Kelly Maguire, FBI

Claudia Hernandez, Paralegal-USAO

Larissa Archondo, Paralegal-FDNY

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1 (Case called)

2 THE DEPUTY CLERK: Starting with counsel for the  
3 government, please state your appearance for the record.

4 MS. SASSOON: Good morning, your Honor.

5 Danielle Sassoona, Mollie Bracewell, Lindsey Keenan,  
6 for the United States; joined by Claudia Hernandez, paralegal  
7 in our office, and Special Agent Maguire of the FBI.

8 THE COURT: Good morning.

9 MS. LENOX: Good morning, your Honor.

10 Federal Defenders, by Marne Lenox for Lawrence Ray.  
11 I'm joined at counsel table by Allegra Glashausser and Neil  
12 Kelly and our paralegal, Larissa Archondo.

13 THE COURT: Good morning. And good morning, Mr. Ray.

14 So I understand the parties have several things to  
15 raise with me. Before I ask what those are, a couple of things  
16 that I need for my benefit. I'm going to direct myself to you,  
17 Ms. Sassoona.

18 First, if you could give me the list of witnesses that  
19 you expect for this week. And then second, I did not receive  
20 any exhibits from you last night either by email or by physical  
21 copies. My clerk sent an email, I think, to the government  
22 asking for the exhibits. We still didn't get them. And if you  
23 want me to give you rulings about exhibits, I need to see them.

24 MS. SASSOON: Your Honor, my understanding from  
25 Ms. Hernandez is that there were exhibits uploaded last night

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1 to the deputy. But if those didn't -- were not received --

2 MS. KEENAN: They were loaded to USAfx, your Honor.  
3 Because of the size of the files, they could not be emailed.

4 So, Mr. Fishman, you might need to check your junk or  
5 spam email for a file from the sender. It usually has the word  
6 "box" in the sender, like Dropbox.

7 THE COURT: We'll check during a break. But I was  
8 also promised physical copies of the exhibits, one for up here  
9 in 24, and the other in chambers. I don't have those either.

10 MS. KEENAN: We can bring those up now, your Honor, if  
11 you'd like, or after we go through jury selection.

12 THE COURT: I don't know how many of you are going to  
13 be in jury selection, but there will be people in chambers who  
14 will be able to receive the exhibits, and it would be helpful  
15 to have the exhibits so that there's no unnecessary break while  
16 I'm waiting for them.

17 MS. KEENAN: No problem.

18 MS. SASSOON: And I apologize, your Honor, we're also  
19 going to be delivering a drive that has the electronic -- the  
20 full set of electronic exhibits to the Court today. It's being  
21 burned today by IT.

22 THE COURT: Okay. I ask first because I need them  
23 generally; second, because there's a pending request with  
24 respect to sealing that I'm not going to rule on until I see  
25 what's going to be sealed; and third, because you submitted a

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1 letter to me yesterday listing a number of exhibits and --

2 MS. SASSOON: Yes, your Honor.

3 THE COURT: And me being able to look at them.

4 MS. SASSOON: Understood.

5 We attempted to upload that specific set of exhibits  
6 last night, and we'll figure out what went wrong and get them  
7 to the Court.

8 THE COURT: Okay.

9 So, Ms. Sassoon, the order of witnesses.

10 MS. SASSOON: Yes, your Honor.

11 The first witness is FBI Special Agent Rachel Graves.

12 THE COURT: And what will she be testifying to?

13 MS. SASSOON: She was the search team leader at 40  
14 Holly Lane, where the defendant was residing.

15 THE COURT: I take it she'll be testifying, among  
16 other things, to the devices retrieved during that search; is  
17 that correct?

18 MS. SASSOON: Yes. I expect that we will introduce  
19 some photographs into the search. She did not take them, but  
20 she is familiar with the contents of the photographs as a  
21 search team leader, and then she will describe the items seized  
22 from certain rooms. We expect that she -- that we will ask for  
23 her to read from her evidence log as a past recollection  
24 recorded; because given the amount of evidence seized, even  
25 looking at the document, her memory is not refreshed with

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1 respect to every single item and where it was located in the  
2 room.

3 THE COURT: I take it you'll establish the foundations  
4 for past recollection recorded.

5 MS. SASSOON: Yes. And then she'll testify -- she'll  
6 read some of the items that were seized, we'll look at  
7 photographs. But at that time I don't expect we're going to be  
8 offering any of those items into evidence at that point.

9 THE COURT: I take it you're not going to be giving it  
10 to them for identification purposes?

11 MS. SASSOON: We're still sorting that out. There are  
12 a couple devices that we may want to show her, and we're going  
13 to sort that out today.

14 THE COURT: Okay. Who's next?

15 MS. SASSOON: Santos Rosario.

16 THE COURT: And he's the first of your alleged  
17 victims; is that correct?

18 MS. SASSOON: Yes. And we sent the defense last night  
19 a list of the exhibits that we intend to introduce during his  
20 testimony, in the hopes that objections can be resolved in  
21 advance of his testimony.

22 THE COURT: Okay. And then after Santos Rosario?

23 MS. SASSOON: The paralegal witness, Sunny Drescher.

24 THE COURT: And with respect to the paralegal witness,  
25 is it a he or a she?

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1 MS. SASSOON: She.

2 THE COURT: What is she going to be testifying to?

3 MS. SASSOON: Our plan is to have her read some email  
4 exhibits into evidence, principally emails sent or received by  
5 the defendant or Talia Ray. We also intend to publish a few  
6 exhibits with her on the stand without her giving commentary on  
7 those exhibits, some photographs and a few videos. And then  
8 the last piece is there are some iCloud exhibits that are text  
9 message exchanges. And our intention is for her to read  
10 specific parts of those text message exchanges.

11 THE COURT: And I take it prior to her testifying,  
12 you're going to introduce the iCloud stipulation; is that  
13 right?

14 MS. SASSOON: Yes, we'll read from the iCloud  
15 stipulation.

16 THE COURT: Okay. I want to go back to the paralegal  
17 in a moment. Who's after the paralegal?

18 MS. SASSOON: It depends a little bit on timing, given  
19 the schedules of our witnesses, but either Dawn Hughes, the  
20 expert --

21 THE COURT: Or?

22 MS. SASSOON: Or Matt Frost, the Backpage summary  
23 witness. And I think that will take us through the week.

24 THE COURT: Okay. You may be seated.

25 I'm going to get back to the paralegal in a moment and

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1 ask you for other questions, but let me just ask the defense,  
2 any issues with respect to the witness list or anything that  
3 the government has raised?

4 MS. LENOX: So one thing I would like to note, and  
5 then my colleague Neil Kelly will address the second point.

6 I would object to having a paralegal testify only in  
7 order to read exhibits that will be introduced into evidence.  
8 I don't think it's necessary or proper, certainly in a trial  
9 like this, where all of the complaining witnesses are expected  
10 to testify.

11 There are over 30 witnesses on the government's  
12 witness list. The government has made representations about  
13 trying to streamline its proof. I think to the extent that  
14 those are offered into evidence, there's no need for anyone to  
15 sit there and read the contents of emails. They will be in  
16 evidence, the jury will be able to reference them, and the  
17 government can use them in their closing arguments.

18 THE COURT: Is there a specific nature of objection  
19 that you're making to that testimony from the paralegal? It's  
20 not uncommon for there to be paralegals who testify with  
21 respect to exhibits that are in evidence. But I want to  
22 understand exactly the nature of the objection you're just  
23 lodging.

24 MS. LENOX: Certainly that's true, your Honor. It's  
25 not that there is anything within the rules that prohibit such

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1 testimony; but the Court, in its discretion, could certainly  
2 choose not to allow the government to have a witness testify in  
3 this regard. I know that other courts in this district have  
4 specifically indicated that such witness testimony from a  
5 paralegal simply to read from exhibits that are already in  
6 evidence is unnecessary.

7 THE COURT: Ms. Lenox, you may be seated. I'm going  
8 to turn to Mr. Kelly, and then I'll turn to you with respect  
9 to -- you'll have an opportunity to speak.

10 MR. KELLY: Thank you, your Honor.

11 May I use the podium?

12 THE COURT: You may.

13 MR. KELLY: Thank you. Thank you, your Honor.

14 As the Court knows, yesterday afternoon the government  
15 disclosed that certain of the government witnesses who had  
16 previously moved to maintain their anonymity at trial and  
17 maintain their privacy, had given interviews to a  
18 documentary --

19 THE COURT: Let me interrupt you for a second,  
20 Mr. Kelly. Does this have to do with the paralegal?

21 MR. KELLY: No, no, this is the witness issue, I'm  
22 sorry, on the government's witnesses for this week.

23 THE COURT: Okay. Let me let Ms. Sassoon respond with  
24 respect to the paralegal, and then I'll turn to you.

25 MR. KELLY: Sure.

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1 MS. SASSOON: Yes, your Honor.

2 It's my understanding that some judges don't permit  
3 the government to read exhibits with no one on the stand. But  
4 we're putting a witness there. This is a fairly standard  
5 practice. And the exhibits we selected are ones that, by and  
6 large, are not readily displayed to the other witnesses on our  
7 witness list. For example, text messages between Talia Ray and  
8 Isabella Pollok, neither of those women is expected to testify  
9 at the trial. Our witnesses don't have firsthand knowledge of  
10 those text messages. Emails between the defendant and his  
11 daughter, similar category. A lot of these documents are  
12 co-conspirator statements exchanged between co-conspirators and  
13 not victims.

14 To the extent that there are some emails involving the  
15 victims, there are reasons not to display it with those  
16 witnesses that have been decisions made by the government. For  
17 example, an email from one victim that the defendant then  
18 forwards. The witness is not -- doesn't have knowledge that  
19 the email was forwarded. The content of that particular email  
20 is extremely sensitive; it talks about wanting to kill himself.  
21 There are certain exhibits we've decided in our discussion that  
22 we don't want to subject our witnesses to testifying about on  
23 direct examination. Obviously the defense could choose to use  
24 these exhibits in their cross-examinations, but in designing  
25 how we want to present the proof to the jury, there are reasons

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1 that we are presenting them through this paralegal rather than  
2 through a different witness.

3 THE COURT: How long do you expect the testimony of  
4 the paralegal to last?

5 MS. SASSOON: About an hour.

6 THE COURT: Okay. All right.

7 I will permit the testimony of the paralegal. With  
8 respect to specific exhibits, objections can be made as to  
9 specific exhibits. I'm not necessarily either accepting or  
10 rejecting Ms. Sassoone's proffer with respect to specific  
11 exhibits.

12 All right. Mr. Kelly.

13 MR. KELLY: Thank you, your Honor.

14 So just to remind the Court, to take a step back, with  
15 respect to the complaining witnesses, there's sort of a  
16 separation between Dan Levin, who wrote a book, has  
17 participated in a documentary about the alleged conduct here,  
18 and the other complaining witnesses who we've gone through a  
19 lot of litigation over the years about maintaining their  
20 anonymity, protecting their privacy, everything from their  
21 testimony to their medical records.

22 THE COURT: Let me interrupt you for a second.

23 With respect to their anonymity, I don't think we've  
24 gone through a lot of litigation. I think the issues have just  
25 recently been raised and initially were raised by me. I

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1 appreciate the issues with respect to the other privacy  
2 questions.

3 MR. KELLY: Sure. We've been maintaining their --  
4 we've been referring to them by Jane and John Doe up until very  
5 recently.

6 THE COURT: Right. And I think both sides have agreed  
7 to that, different issues presented when we go to trial.

8 MR. KELLY: Sure.

9 And the reason I was drawing that distinction, your  
10 Honor, is because in the 3500 material, the government produced  
11 transcripts from Mr. Levin's interviews with a documentary  
12 filmmaker, again, consistent with our understanding that he was  
13 open and freely sharing information about his experiences, but  
14 the other witnesses were not.

15 Yesterday the government informed us that, in fact, it  
16 sounds like the Rosario siblings have been giving multiple  
17 interviews to a documentary filmmaker. It's our understanding  
18 that there would be similar transcripts of those interviews,  
19 just as there were with Mr. Levin, in the possession of either  
20 the witnesses themselves or Mr. Levin or a production company.  
21 They might be in numerous places.

22 Why we're raising that now is Mr. Rosario is expected  
23 to be the first substantive witness this week. We think that  
24 the material in that -- in those transcripts is obviously  
25 material and relevant to the case. The government appears to

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1 agree with respect to Mr. Levin's transcripts. It relates to  
2 the same subject matter. It will potentially yield  
3 exculpatory, if not at least impeachment material. So I raise  
4 two issues with respect to that, and specific to Mr. Rosario.

5 The first is we intend to request a so-ordered  
6 subpoena from the Court to help expedite the production of any  
7 such transcripts. We've already conferred with the government.  
8 They've represented they don't have any of these materials in  
9 their possession. So we intend to seek that material as  
10 quickly as possible.

11 And two, with respect to Mr. Rosario's testimony, if  
12 he's going to take the stand tomorrow, we're not going to get  
13 that material before he testifies. So we intend -- and I want  
14 to make a record now -- that we would like to leave his  
15 testimony open, to the extent that it needs to continue, once  
16 we do receive that material.

17 THE COURT: Okay.

18 Any objection to leaving it open?

19 Actually, let me ask you a follow-up question,  
20 Mr. Kelly, just to make sure I understand the request.

21 As I understand the request, you would begin your  
22 cross-examination of Mr. Rosario, but you would leave it open  
23 to continue the cross-examination after you receive the  
24 transcripts, if there's something in the transcripts that  
25 merits the cross-examination.

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1 MR. KELLY: Correct, your Honor.

2 THE COURT: And I, presumably, would not tell the jury  
3 necessarily that the testimony is being left open, because I  
4 wouldn't necessarily want to leave with the jury the impression  
5 that there's something to come from Mr. Rosario if you opt not  
6 to continue the cross-examination.

7 MR. KELLY: That's correct, your Honor.

8 And I should be clear that to the extent another  
9 substantive witness takes the stand early next week and we  
10 haven't received their transcripts of their interviews, we  
11 would ask for the same ruling.

12 THE COURT: Let me also mention something to the  
13 parties. Mr. Kelly, you can sit down, while the government is  
14 conferring.

15 If there are evidentiary issues, legal issues of any  
16 kind that you're bringing to my attention, my expectation is  
17 that the parties will have met and conferred beforehand to try  
18 to reach agreement with them and then presents the disagreement  
19 to me. That's a going-forward rule. And going forward, my  
20 first question will be did you meet and confer about this; and  
21 if you haven't met and conferred, I will defer ruling until you  
22 have met and conferred.

23 Let me turn to the government.

24 MS. KEENAN: So, your Honor, to the extent it's  
25 possible to respond to this request after we've had an

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1 opportunity to confer about it, that would be great. The only  
2 transcripts that the government is in possession of is the  
3 transcripts that we already provided for interviews that Daniel  
4 Levin gave in connection with the documentary. He's  
5 differently situated than the other victims in that he is an  
6 executive producer on the documentary. It's our understanding  
7 that that is why he had transcripts of his interview. And it's  
8 our understanding that he does not have transcripts of other  
9 interviews, and we don't know whether victims have transcripts  
10 of other interviews.

11 We provided information related to this issue as we  
12 learned about it, which, with respect to Mr. Rosario, was  
13 yesterday. We promptly conferred with his counsel and learned  
14 about the dates on which he spoke with the documentary  
15 filmmaker, which were in 2020. It's our view that these  
16 transcripts are not relevant to his testimony here; that he's  
17 had numerous interviews with the government and there is plenty  
18 of impeachment material in the interviews that he has already  
19 given the government.

20 We did, when we learned about the transcripts that  
21 Mr. Levin had, confer with counsel for the documentary  
22 filmmaker. And they took the position that, as a news  
23 organization, they would not be properly subject to a subpoena.

24 THE COURT: The role of Mr. Levin makes this an  
25 interesting issue that I may have to resolve.

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1           Have you asked either Mr. Levin or the alleged victims  
2 if they have copies of the transcripts and, if they don't, if  
3 they would request them?

4           MS. KEENAN: So initially when I spoke with Mr. Levin  
5 about this, I inquired who he knew had given interviews in  
6 connection with the documentary. And he was not aware that  
7 these other victims gave interviews for the documentary. So I  
8 didn't ask him whether transcripts existed. I have now posed  
9 that question to his counsel; and, of course, when we have an  
10 answer, if it's possible to get transcripts from Mr. Levin, we  
11 will try.

12           THE COURT: Why don't you tell them that I want an  
13 answer by the end of the day today.

14           MS. KEENAN: Sure.

15           THE COURT: What about asking the Rosarios if they  
16 have copies of the transcripts and, if not, if they can ask the  
17 producer to give them copies of the transcripts if they don't  
18 have them?

19           MS. KEENAN: We're happy to do that, your Honor.

20           We have asked the Rosarios if they have transcripts.  
21 Mr. Rosario specifically was not aware that any interview he  
22 gave was recorded. So I have a sense of what his answer will  
23 be, but I don't want to represent anything until I've confirmed  
24 it.

25           THE COURT: All right. Why don't you meet and confer

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1 with the defense with respect to the specific request of  
2 keeping the cross-examination open. And at the lunch break  
3 during jury selection you'll let me know whether there's a  
4 legal issue and an objection to keeping the cross-examination  
5 open pending either the receipt of transcripts or a definitive  
6 answer that there are no transcripts.

7 MS. KEENAN: Sure, your Honor.

8 And I'll just note that the transcript to Mr. Levin  
9 was a personal -- or the subpoena to Mr. Levin was a personal  
10 subpoena, not to Mr. Levin as a producer on the documentary. I  
11 think that Hulu would take the position that Mr. Levin, as a  
12 producer on the documentary, also is a member of the news  
13 media.

14 THE COURT: That, I would think, is not your issue,  
15 but their issue.

16 All right. What's next from the government?

17 MS. SASSOON: I wanted to mention that it's our plan  
18 for Special Agent Maguire, as the case agent, to be present for  
19 the trial. She is expected to testify later in the trial.

20 THE COURT: So I take it you're asking for relief from  
21 the rule regarding sequestration; is that right?

22 MS. SASSOON: Yes, your Honor. Thank you.

23 THE COURT: Is there any objection to that?

24 MS. GLASHAUSSER: Yes, your Honor. We do object to  
25 that.

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1           We do understand that Agent Maguire is planning to  
2 testify likely in a fairly extensive manner. Her 3500 is the  
3 most voluminous of any of the witnesses we have received by  
4 large volume. So we would object to her sitting here.

5           The rule against -- or the rule requiring witnesses  
6 not to sit in court during the testimony is there for a reason,  
7 so that witnesses provide their own testimony, rather than  
8 hearing all of the other testimony and incorporating that into  
9 their testimony.

10          We would object.

11          THE COURT: The rule is generally based upon concerns  
12 that witnesses may tailor their testimony based upon what  
13 they've heard. There's a fair amount of law for the  
14 proposition that a case agent who's assisting the government in  
15 terms of the presentation of a case can attend.

16          But let me hear from the government both why it's  
17 necessary for the case agent to attend, which is one of the  
18 requirements under the rule; and second, what you expect the  
19 agent to testify to, which raises concerns about whether  
20 testimony could be tailored or overlaps with fact witnesses.

21          MS. SASSOON: Yes, your Honor.

22          THE COURT: Or other law enforcement witnesses.

23          MS. SASSOON: We can also put in a letter later today  
24 with the relevant law that we think supports her presence.

25          THE COURT: The law would be fine. But actually the

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1 answers to the two questions, which you can either give me  
2 later today or you can give me right now.

3 MS. SASSOON: Yes. So Agent Maguire is assisting us  
4 in overseeing the evidence, helping bring witnesses to the  
5 courtroom, handling the physical exhibits. So there's a  
6 function for her throughout the trial. She has been in most of  
7 the witness preparation for this trial and has, in sum and  
8 substance, heard most of the testimony that's going to be  
9 elicited at this trial.

10 Her testimony is going to be, in part, as a summary  
11 witness. There are numerous summary charts that she's going to  
12 testify about that summarize documentary evidence and other  
13 exhibits, timeline slides. And as a summary witness, she  
14 also -- it's appropriate for her to hear some of the testimony.  
15 The summary charts are principally summaries of voluminous  
16 documentary evidence; but it's my understanding that it's also  
17 appropriate for a summary witness -- for those charts to  
18 sometimes include summary related to testimony at the trial.

19 In terms of her role in the courtroom, she, more than  
20 anyone on this team, has a command of the facts, the exhibits.  
21 She's conducted the responsive review of all the evidence  
22 that's going to be introduced at this trial; she's identified  
23 relevant materials, both in terms of discovery and now for  
24 putting in the proof at trial. And so I think that also  
25 addresses any -- the fact that there's a lack of prejudice

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1 here, because she knows everything that's coming in at this  
2 trial.

3 THE COURT: Ms. Sassoon, you made a motion *in limine*  
4 that the agent be permitted to make certain identifications,  
5 including identifications of Mr. Ray. Is it still your  
6 intention for Agent Maguire to make identifications and of  
7 which people?

8 MS. SASSOON: Yes. And we intend to lay the proper  
9 foundation there that her familiarity is based on the  
10 wide-ranging investigation, preparation for trial.

11 THE COURT: Which individuals?

12 MS. SASSOON: The defendant, Isabella Pollok, Talia  
13 Ray, the victim witnesses who will be testifying, Lawrence  
14 Grecco, that's the defendant's father. She's seen him in  
15 person. That's all I can think of right now.

16 THE COURT: Okay. All right. I'll take this under  
17 advisement. If you want to send a letter, you can, but I'm not  
18 sure I need it.

19 Anything else from the government?

20 MS. KEENAN: We spoke with Mr. Pecorino this morning,  
21 your Honor, about publishing sensitive exhibits to the jury.  
22 And we just wanted to make sure that the Court is alerted to  
23 the fact that Mr. Pecorino said that he could have someone in  
24 the courtroom or someone who is sort of deputized to turn off  
25 the public monitor when sensitive exhibits are displayed.

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1                   THE COURT: Thank you for bringing that to my  
2 attention. That will just be with respect to the exhibits that  
3 you've made an application for sealing; is that right?

4                   MS. KEENAN: That's right, your Honor.

5                   THE COURT: Okay. And with respect to the audio,  
6 we've made arrangements with the court personnel for headsets.  
7 It took a little bit of work to make sure that there would be  
8 headsets available, but I believe that that should be in place.

9                   MS. KEENAN: We confirmed this morning that they have  
10 20 headsets available, so there should be not only enough  
11 headsets for the jury and your Honor and the witness, if  
12 necessary, but also additional headsets, and one for the  
13 defendant.

14                  THE COURT: Okay. Anything else from the government?

15                  MS. SASSOON: No. Thank you, your Honor.

16                  THE COURT: From the defense, any issues?

17                  MS. LENOX: I want to just flag we'll also need  
18 headsets.

19                  THE COURT: I think the number 20, which is what I  
20 came up with, was intended to make sure that there would be at  
21 least one lawyer for the defense, one lawyer for the  
22 government, Mr. Ray, myself, and the jurors. That's where the  
23 number 20 comes from.

24                  MS. LENOX: Great. Thank you, your Honor.

25                  And just one final note from the defense, which I

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1 think is an obvious point, but I just want to put it on the  
2 record and ask that your Honor make an order that the  
3 government, to the extent that we are taking breaks between  
4 witnesses or witness testimony is continuing overnight, that  
5 your Honor order the government not to speak with its witnesses  
6 about the subject of their testimony while their testimony is  
7 ongoing during these breaks.

8 THE COURT: Let me ask you the question. I understand  
9 that request. While the witness -- after the witness has  
10 finished their direct and while they are on cross-examination.  
11 But while they are still on direct, is there -- are you asking  
12 for the government to be prohibited from talking to the witness  
13 while they are still on direct during a break?

14 MS. LENOX: Yes, your Honor.

15 THE COURT: Is there authority for that?

16 MS. LENOX: I'm happy to provide authority. I don't  
17 have it in front of me right now at this moment, but I do  
18 believe there is authority for that proposition.

19 THE COURT: That would be helpful.

20 MS. LENOX: Certainly.

21 THE COURT: Ms. Sassoon, you can address it now or you  
22 can address it after I've got the authority.

23 MS. SASSOON: We oppose the motion, everything except  
24 for witnesses on cross-examination. We'll respond to the  
25 letter.

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1                   THE COURT: Okay. Let me ask one more question --  
2 actually, is there anything else, Ms. Lenox?

3                   MS. LENOX: No. Thank you, your Honor.

4                   THE COURT: With respect to the letter that I received  
5 from the government regarding the exhibits that the paralegal  
6 is going to be testifying to, I understand that the first set  
7 of exhibits, which begin GX-1840 to GX-2144, there will be  
8 authentication testimony from Agent Flatley that those exhibits  
9 were retrieved from devices that the chain of custody will  
10 establish were obtained during a search; is that right?

11                  MS. SASSOON: Yes.

12                  THE COURT: But you're not going to have Agent Flatley  
13 testify before the paralegal testifies?

14                  MS. SASSOON: Correct. So that would be part of  
15 offering it subject to connection, the Agent Flatley  
16 connection. And then any other connection your Honor still  
17 thinks is necessary beyond that.

18                  THE COURT: Okay. Is there any objection to doing it  
19 in that order from the defense?

20                  MS. LENOX: If the government is able to provide an  
21 offer of proof sufficient to maintain that it will be subject  
22 to connection, then there is no objection. But if that  
23 connection is not later made, then certainly the defense  
24 reserves the right to object.

25                  THE COURT: Okay.

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1           And, Ms. Lenox, are there objections to the specific  
2 exhibits that are in the letter?

3           MS. LENOX: Yes, there are, your Honor.  
4 Unfortunately, I am prepared to address them, but I don't have  
5 the physical exhibits with me which would enable me to more  
6 properly address them with the Court. But I am in a position  
7 to do that before the witness testifies.

8           THE COURT: Are they to every single exhibit or just  
9 to specific ones?

10          MS. LENOX: No, specific ones.

11          THE COURT: So you'll identify for the defense what  
12 those -- what the exhibits are. And how quickly can you let  
13 both the government know and me know what the exhibits are that  
14 are at issue? End of the day today?

15          MS. LENOX: Yes.

16          THE COURT: Okay. All right.

17          I think we're still just waiting for the jurors.

18          Let me confer with my deputy.

19          MS. SASSOON: May I ask, Mr. Fishman, if you found  
20 the --

21          THE DEPUTY CLERK: I didn't.

22          MS. SASSOON: Okay.

23          THE COURT: So we're waiting for the jury.

24          Why don't I ask everybody to stay in the courtroom,  
25 unless you need a bathroom break. And when we get word that

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1 the jury is ready, then -- we actually did just get word.

2 Ms. Lenox?

3 MS. LENOX: With respect to your Honor's note  
4 yesterday that we could have a paralegal sit in the satellite  
5 room with jurors, we are going to ask that one of our  
6 colleagues sit in that room. Her name is Alyssa Perry.

7 THE COURT: Okay. Matt, do we need to do anything  
8 with respect to that?

9 Just they can head up and let them know that their  
10 paralegal -- is the government going to have anybody there?

11 MS. SASSOON: No, your Honor.

12 THE COURT: Okay. All right.

13 So we've gotten word that the jurors are ready. Let  
14 me just confer with respect to the mechanics of it.

15 Hold on for a second.

16 And we also have the juror questionnaires that my  
17 clerk will pass out to you.

18 Okay. So the lawyers should all head down to the  
19 ground floor. Meet us right outside of the jury assembly room  
20 near where the elevators are. Mr. Ray will come down  
21 separately, and then we'll all meet in the vestibule with me  
22 and then the lawyers. And Mr. Ray will enter the jury assembly  
23 room once you are set. I will enter separately, and  
24 Mr. Fishman will call the case.

25 Anything more before we break?

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1 MS. SASSOON: Thank you. No, your Honor.

2 MS. LENOX: Nothing. Thank you.

3 THE COURT: Okay.

4 (Jury selection commenced)

5 (Adjourned to March 9, 2022 at 9:30 a.m.)

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